

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

CERTAIN UNDERWRITERS )  
AT LLOYD'S, LONDON )  
SUBSCRIBING TO POLICY NO. )  
AH00000154-01, )  
 )  
Plaintiff, )  
 )  
v. ) CV422-035  
 )  
CHERYL EDENFIELD, as )  
Mother and as Legal Guardian )  
Of Quincy Edenfield, an )  
Incapacitated Adult, *et al.*, )  
 )  
Defendants. )

**ORDER**

Defendants' Motion to Dismiss and Second Motion to Dismiss are currently pending before the District Judge. *See* docs. 12 & 21.<sup>1</sup> They have filed a Motion to Stay pending disposition of those motions. *See* doc.

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<sup>1</sup> It is unclear from Defendants' Second Motion to Dismiss and Motion to Stay whether they contend their initial Motion to Dismiss is now moot. *See* docs. 21 & 29; doc. 14 (Amended Complaint); *see also*, e.g., *Auto-Owners Ins. Co. v. Tabby Place Homeowners Assn.*, \_\_\_F. Supp. 3d \_\_\_, 2022 WL 4542114, at \*2 n. 4 (S.D. Ga. Sept. 28, 2022) ("An amended complaint that does not incorporate the prior pleading . . . moots the motion to dismiss the original complaint because the motion seeks to dismiss a pleading that has been superseded." (internal quotation marks and citation omitted)). Defendants are, therefore, **DIRECTED** to **SHOW CAUSE** within 14 days of the date of this Order why their initial Motion to Dismiss should not be dismissed as moot. Doc. 12.

39. The Motion to Stay is unopposed. *See* S.D. Ga. L. Civ. R. 7.5 (“Failure to respond within [14 days] shall indicate that there is no opposition to a motion.”); *see generally* docket (Plaintiff has not responded to the Motion to Stay). For the following reasons, the unopposed Motion to Stay is **GRANTED**. Doc. 39.

A court has “broad discretion” in determining whether to grant a stay of discovery. *Rivas v. The Bank of New York Mellon*, 676 F. App’x 926, 932 (11th Cir. 2017). The Eleventh Circuit has recognized that it is appropriate for the Court dispose of “[f]acial challenges to the legal sufficiency of a claim or defense, such as a motion to dismiss based on failure to state a claim for relief,” before the parties engage in costly and potentially unnecessary discovery. *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1367-68 (11th Cir. 1997).

When “deciding whether to stay discovery pending resolution of a pending motion, the Court inevitably must balance the harm produced by a delay in discovery against the possibility that the motion will be granted and entirely eliminate the need for such discovery.” *SP Frederica, LLC v. Glynn Cnty.*, 2015 WL 5242830, at \*2 (S.D. Ga. Sept. 8, 2015) (internal quotation marks omitted) (quoting *Feldman v. Flood*,

176 F.R.D. 651, 652 (M.D. Fla. 1997)). In evaluating stays of discovery pending resolution of dispositive motions, “a court must take a ‘preliminary peek’ . . . to assess the likelihood that the motion will be granted.” *Taylor v. Jackson*, 2017 WL 71654, at \*1 n.2 (S.D. Ga. Jan. 6, 2017) (quoting *Sams v. GA West Gate, LLC*, 2016 WL 3339764, at \*6 (S.D. Ga. June 10, 2016)). “[A] stay should be granted only where the motion to dismiss appears, upon preliminary review, to be clearly meritorious and truly case dispositive.” *Sams*, 2016 WL 3339764, at \*6 (internal quotation marks and citation omitted). “A request to stay discovery pending a resolution of a motion is rarely appropriate unless resolution of the motion will dispose of the entire case.” *CSX Transp., Inc. v. United States*, 2014 WL 11429178, at \*1 (S.D. Ga. May 30, 2014) (citing *Feldman*, 176 F.R.D. at 652).

Plaintiff does not oppose the stay request, *see generally* docket, and does not indicate that it would be prejudiced by a stay. Upon preliminary review, the Motions to Dismiss do not appear to be meritless. *See* docs. 12 & 21. Additionally, Defendants seek dismissal of the entire case. *Id.* On balance, then, a stay is appropriate.

Defendants' unopposed Motion to Stay Discovery is **GRANTED**, doc. 39, and all deadlines in this case are **STAYED** pending disposition of their Second Motion to Dismiss, doc. 21. Upon disposition of the Second Motion to Dismiss, the Clerk is **DIRECTED** to lift the stay. If the case remains pending, the parties are **DIRECTED** to confer and submit a new Rule 26(f) report within 14 days from that disposition, unless otherwise instructed by the District Judge.

**SO ORDERED**, this 8th day of February, 2023.

  
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CHRISTOPHER L. RAY  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF GEORGIA